

**RULES
OF
TENNESSEE STATE BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 1020-1
GENERAL RULES GOVERNING NURSING HOME ADMINISTRATORS**

TABLE OF CONTENTS

1020-1-.01	Definitions	1020-1-.11	Licensure Renewal
1020-1-.02	Fees	1020-1-.12	Continuing Education
1020-1-.03	Board Officers, Records, Meeting, and Consultants	1020-1-.13	Licensure Retirement and Reactivation
1020-1-.04	Approval of Programs of Study	1020-1-.14	107(e) Administrator Review
1020-1-.05	Licensure	1020-1-.15	Licensure Discipline, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas
1020-1-.06	Preceptors, Administrators In Training and Administrator in Training Programs	1020-1-.16	Scope of Practice
1020-1-.07	Temporary Licenses	1020-1-.17	Consumer Right to Know Requirements
1020-1-.08	Reciprocity Licensure Process	1020-1-.18	
1020-1-.09	Application Review, Approval, Denial, and Interviews	through	
1020-1-.10	Examinations	1020-1-.19	Repealed

1020-1-.01 DEFINITIONS.

- (1) **Acceptable Management Experience.** The actual practice of health care facility administration in an inpatient health care facility with guidance and sharing of responsibility from the administrator and not related to the role of an administrative clerk. "Acceptable management experience" contemplates experience in all departments or areas of the facility, provided however, that this term is not to be construed to require that the applicant have spent the entire number of years of "acceptable management experience" referred to in rule 1020-1-.05(2)(c) and (d) in the capacity of an assistant administrator. Responsible supervisory experience in various departments within the facility may be applied to meet the requirements of rule 1020-1-.05(2)(c), (d) and (e), and the time spent in a board approved AIT program may also be counted toward these requirements. However, no more than two-thirds (2/3) of the required "acceptable management experience" can be obtained in any one area of the facility, e.g., in dietary, nursing, financial, etc.
- (2) **Administrator (Nursing Home Administrator).** Any individual responsible for planning, organizing, directing or controlling the operation of a nursing home, or who in fact performs such functions, whether or not such functions are shared by one or more other people.
- (3) **Administrator Review 107(e).** The process provided for by T.C.A. § 63-16-107(e) for review of fitness as a prerequisite to licensure renewal.
- (4) **Affirmative Finding.** The term used to describe the finding contemplated by T.C.A. § 63-16-107(e) that an administrator under review pursuant to that statute can be expected to satisfactorily discharge the duties of an administrator in the future, in a manner which assures an adequate level of care for nursing home residents.
- (5) **A.I.T. (Administrator-In-Training).** A person participating in an administrator-in- training program.
- (6) **Assistant Administrator.** The person directly responsible to the administrator of a facility with the same responsibilities as an administrator during the administrator's absence from the facility.
- (7) **Assistant or Associate Hospital Administrator.** An individual, qualified by education and/or experience (minimum of five of the last seven years as an administrative officer), who serves as the chief operating officer. This individual is appointed by the chief executive officer, usually with the concurrence of the governing authority.

(Rule 1020-1-.01, continued)

The assistant/associate administrator is: directly responsible for the operation of several hospital departments and assists the administrator, as assigned, in other executive management functions; “in charge” of the facility during the absence of the administrator; and, must follow its mission, goals and objectives that have been adopted.

This individual must work with community, county and state governments on a wide variety of topics

- (8) Board. The Tennessee Board of Examiners for Nursing Home Administrators.
- (9) Board Administrative Office. The office of the administrator assigned to the Tennessee Board of Examiners for Nursing Home Administrators located at First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010.
- (10) Clock Hour. The measure of time for continuing education courses which equals sixty (60) minutes.
- (11) Division. The Division of Health Related Boards of the Department of Health, from which the Board receives administrative support.
- (12) Domains of Practice - Those areas of nursing home administration defined by the “Job Analysis Study” conducted by NAB.
- (13) Facility. A licensed nursing home facility.
- (14) Hospital Administrator. An individual, qualified by education and/or experience (minimum of five of the last seven years as an administrative officer), who serves as the chief executive officer of a licensed hospital. This individual is appointed by the governing authority and is responsible to it for the executive management of the organization according to the mission, goals and objectives that have been adopted.

The administrator must develop an organizational structure to provide the patient care services that are offered by the facility which is consistent with the mission and meets all applicable legal, licensure and accreditation requirements; assure that appropriate mechanisms are in place for an organized medical staff and (if applicable) a volunteer organization; also oversee long range planning and possibly even joint ventures.

This individual must work with community, county and state governmental agencies on a wide variety of topics.

Note: In a multi-hospital organization, the chief executive officer may be directly responsible to a corporate official and may have a local advisory board or other consultative group

- (15) Licensee. Any person who has been lawfully issued a license to practice nursing home administration in Tennessee.
- (16) NAB. The National Association of Boards of Examiners for Long Term Care Administrators.
- (17) Nursing Home. Any institution or facility defined as such pursuant to state law or the rules and regulations for nursing homes promulgated by the Board for Licensing Health Care Facilities. This term shall apply equally to Christian Science Santeria and services therein.
- (18) Practice of Nursing Home Administration. The planning, organizing, directing, or controlling of the operation of a nursing home.

(Rule 1020-1-.01, continued)

- (19) Preceptor. A licensee in a teaching role who has the training, knowledge, professional activity, and a facility at which he or she trains prospective nursing home administrators. The preceptor will coordinate the program of development of an A.I.T.
- (20) Reciprocity Licensure. Licensure by endorsement from another state.
- (21) NAB Examination. The nursing home administrators licensure examination developed by NAB.
- (22) Jurisprudence Examination. The examination on Tennessee statutes and rules for nursing homes in Tennessee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-101, 63-16-103, 63-16-105, 63-16-107, and 63-16-108.

Administrative History: Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed August 6, 2002; effective October 20, 2002.

1020-1-.02 FEES.

- (1) The fees authorized by the Practice Act (T.C.A. § 63-16-101, et seq.) and other applicable statutes, to be established by the Board are as follows:
 - (a) Application Fee. A nonrefundable fee to be paid each time an application for licensure is filed. \$250.00
 - (b) License Renewal Fee. A biennial non-refundable fee to be paid by all licensees. \$180.00
 - (c) State Regulatory Fee. A non-refundable fee to be paid upon licensure and biennially for renewal of licensure. \$ 10.00
 - (d) Late Renewal Fee. A non-refundable fee to be paid to reinstate an expired license. \$200.00
 - (e) Duplicate License Fee. \$ 50.00
 - (f) Certificate of Fitness Fee. \$ 50.00
 - (g) Jurisprudence Examination Fee. A nonrefundable fee to be paid each time a person takes the Board's jurisprudence examination. \$100.00
- (2) Fees may be paid in the following manner:
 - (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Board of Examiners for Nursing Home Administrators.
 - (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-203, 4-5-204, 63-1-106, 63-1-107, 63-1-118, 63-16-103 through 63-16-105, 63-16-107, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Repeal filed November 12, 1982; effective December 13, 1982. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Amendment filed September 25, 1995; effective December 9, 1995. Amendment filed June 13, 1996; effective August 24, 1996. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed August 6, 2002; effective October 20, 2002.

1020-1-.03 BOARD OFFICERS, RECORDS, MEETINGS, CONSULTANTS, CHANGE OF ADDRESS AND/OR NAME, AND DECLARATORY ORDERS.

- (1) The Board shall annually elect from its members the following officers:
 - (a) Chairman - who shall preside at all Board meetings.
 - (b) Vice Chairman - who shall preside at Board meetings in the absence of the Chairman.
 - (c) Secretary - who along with the Board Administrator shall be responsible for all administrative functions, records and correspondence of the Board.
- (2) The rules of parliamentary procedures as contained in "Robert's Rules of Order, Revised" shall govern all meetings of the Board.
- (3) Minutes of the Board meetings and all records, documents, applications and correspondence will be maintained in the Board Administrative Office.
- (4) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board Administrative Office. Any requests or inquiries requiring a Board decision or official Board action, except documents relating to disciplinary actions, declaratory orders or hearing requests, must be in the hands of the Board Administrator on or before the tenth (10th) working day preceding the next scheduled meeting of the Board, and will be retained in the Administrative Office and presented at the Board meeting. Documents not timely received shall be set over to the next Board meeting.
- (5) The Board Consultant, an individual selected and authorized by the Board to perform the specific functions delegated to the Consultant by these rules or the Board, is vested with the authority to serve as Consultant to the Division to decide the following:
 - (a) Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.
 - (b) Whether and under what terms a complaint, case, 107(e) administrator review or disciplinary action may be informally settled. Any matter proposed for informal settlement must be subsequently considered by the full Board and either adopted or rejected.
 - (c) Make determinations on requests for stays of Board Orders pursuant to rule 1360-4-1-.18 which must be subsequently ratified by the full Board.
- (6) Requests for Certificates of Fitness for licensees desiring to practice in another state must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 1020-1-.02(1)(f).
- (7) Requests for duplicate or replacement licenses must be made in writing to the Board Administrative Office and be accompanied by the fee provided in rule 1020-1-.02(1)(e).
- (8) The Executive Officer of the Board shall be responsible for coordination and implementation of Board approved activities, requests or inquiries related to any department, bureau or division of state government.
- (9) Change of Name and/or Address.
 - (a) Change of Address. Each person holding a license who has had a change of address or place of employment, shall file in writing with the Board his current address, giving both old and new addresses. Such requests shall be received in the Board's administrative office no later than

(Rule 1020-1-.03, continued)

thirty (30) days after such change is effective and must reference the individual's name, profession, and license number.

- (b) **Change of Name.** An individual registered with the Board shall notify the Board in writing within thirty (30) days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual's profession, board, and license number.
- (10) The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's Administrative office.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 63-1-106, 63-1-108, and 63-16-103. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 13, 1996; effective August 24, 1996. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 17, 2000; effective July 1, 2000.

1020-1-.04 APPROVAL OF PROGRAMS OF STUDY.

- (1) Any program of study offered by an educational institution, association, professional society or organization designed especially for the purpose of qualifying applicants for licensure as nursing home administrators is approved by the Board if the program meets all of the following qualifications:
 - (a) The program of study includes courses in all the Domains of Practice or their equivalent.
 - (b) The program of study must be offered by an accredited university or college, be specifically designed to train and qualify applicants for licensure and meet the academic requirements of the college or university.
 - (c) Effective January 1, 2000, the program of study shall include a 400 hour internship taken for credit and served in a licensed long term care nursing facility.
- (2) The Board may approve a program of study which excludes those subjects required by this rule which are in derogation of, or in conflict with the teachings and practice of any recognized religious faith. Provided, however, any applicant seeking admission to such program of study hereunder shall submit evidence satisfactory to the Board of being in fact an adherent of such recognized religious faith.
- (3) Programs of study will receive certification from the Board in a manner consistent with existing requirements of the Federal Government in order to qualify for federal financial participation.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-107(7), 63-16-107(8), 63-16-104(a)(1), and 63-16-110. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Repeal filed October 22, 1987; effective December 6, 1987. New rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-1-.05 LICENSURE. To practice as a nursing home administrator in Tennessee, a person must possess a lawfully issued license from the Board.

- (1) An applicant shall obtain a Board approved examination application form and, if applicable, a Board approved A.I.T. application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the forms and submit it along

(Rule 1020-1-.05, continued)

with all documentation and the fees required by rule 1020-1-.02(1)(a), (c), and (g) to the Board Administrative Office.

- (2) An applicant must submit evidence of successful completion of a Board approved educational program which shall include transcripts from the educational institution embossed with its official seal and/or certification of successful completion of one (1) of the five (5) following combinations of education and/or experience:
 - (a) Baccalaureate, masters, or doctorate degree in the area of health care administration from an accredited college or university.
 - (b) Baccalaureate, masters or doctorate degree from an accredited college combined with a Board approved A.I.T. program.
 - (c) An associate degree and three (3) years of acceptable management experience combined with a Board approved A.I.T. program.
 - (d) Five (5) years of acceptable management experience combined with a Board approved A.I.T. program and fifty (50) clock hours of Board approved continuing education in nursing home administration.
 1. The fifty (50) clock hours of continuing education shall be a prerequisite to the A.I.T. program.
 2. The fifty (50) clock hours of continuing education must have begun within twenty-four (24) months immediately prior to approval of the A.I.T. program.
 3. The fifty (50) clock hours of continuing education must have been presented in the traditional "lecture / classroom" format. Courses that use any of the presentation methods in part (3) (c) 1. of Rule 1020-1-.12 shall not be allowed.
 - (e) Hospital administrators and/or assistant or associate hospital administrators with five or more years in full-time hospital administration.
- (3) An applicant who chooses to qualify for licensure by use of an A.I.T. program must obtain Board approval to begin the program.
 - (a) Successful completion of the A.I.T. program as governed by rule 1020-1-.06 is a prerequisite to approval to take the licensure examination.
 - (b) The time an applicant spends in the A.I.T. program may be credited toward the last six (6) months needed to meet the "acceptable management experience" requirement for admission to the examination.
 - (c) The Board shall concurrently determine eligibility for both admission to the examination and commencement of the A.I.T. program upon review of both applications.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-16-103, 63-16-104, 63-16-105, 63-16-106, and 63-16-109.
Administrative History: Original rule certified June 7, 1974. Amendment by Public Chapter 969; effective July 1, 1984. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed January 23, 2002; effective April 8, 2002. Amendment filed February 20, 2002; effective May 6, 2002.

1020-1-.06 PRECEPTORS, ADMINISTRATOR-IN-TRAINING AND ADMINISTRATOR-IN-TRAINING PROGRAMS. A person who intends to qualify for admission to the licensure examination by use of an A.I.T. program must first receive approval to begin the program by complying with rule 1020-1-.05, and successfully complete the program in a Board approved facility under the coordination, supervision and teaching of a Preceptor who has obtained certification from the Board pursuant to, and continues to meet the qualifications of this rule.

(1) Preceptor - Qualifications for Certification.

(a) The following licensees may apply to receive certification as a Preceptor:

1. Any administrator; or
2. Any assistant administrator; or
3. A multifacility regional administrator. However, the A.I.T. program may be conducted only in facilities over which he or she is the regional administrator.

(b) An applicant must obtain from, complete and submit to the Board Administrative Office an application form along with satisfactory documentation of all the following:

1. Current licensure as a nursing home administrator in Tennessee.
 2. One of the following:
 - (i) Valid licensure and full-time practice as a nursing home administrator for three (3) of the five (5) years immediately preceding application, the final year of practice must have been in Tennessee; or
 - (ii) Valid licensure as a nursing home administrator and employment as an assistant administrator with at least six (6) years of full-time experience in licensed nursing homes in the ten (10) years immediately preceding application.
 3. Successful completion of seventy-two (72) semester hours or its equivalent of college credit. Each one (1) year of full-time experience obtained beyond the three (3) or six (6) year qualifying time period may be substituted for twenty-four (24) semester hours of college credit.
 4. Successful completion of a twelve (12) hour Board approved Preceptor Training and Orientation Course. The course must have been completed within the twelve (12) months immediately preceding certification. These hours may be applied to the annual C.E. requirement.
 5. Have no formal disciplinary actions taken against the applicant's license within the ten (10) years immediately preceding application which the Board deems to be of such a nature as to prevent the applicant from providing services as a Preceptor.
- (c) An applicant must attend an interview conducted by the Board or a Board member for discussion of basic concepts of the Preceptor Program. A major purpose of the interview will be to evaluate the training effectiveness of the preceptor. The Board may require that the interviews be electronically recorded and transcribed so that there will be no misunderstandings when the Board Member makes a presentation to the entire Board.
- (d) A preceptor may not supervise more than two (2) A.I.T.'s at one (1) time except by written permission of the Board.

(2) Preceptor - Continued Certification.

(Rule 1020-1-.06, continued)

- (a) To remain certified as a preceptor a licensee must, on or before December 31st of every year after initial certification, successfully complete nine (9) clock hours of Board approved continuing education within the calendar year in addition to the continuing education hours required for licensure renewal pursuant to rule 1020-1-.12. Credit for six (6) hours of continuing education per year shall be given to a preceptor upon the successful completion of an A.I.T. program.
 - (b) Failure to provide an A.I.T. an opportunity for adequate training under proper supervision in the administrative and operating activities and functions of a facility shall be grounds for discipline of a Preceptor's certification pursuant to T.C.A. § 63-16-108(a)(1) and rule 1020-1-.15.
 - (c) Preceptor certification is subject to disciplinary action in the same manner and for the same causes as that for licensees.
 - (d) When an A.I.T. fails the written licensure examination twice, the preceptor for the A.I.T. may, in the Board's discretion, be required to furnish a written assessment of the reasons for the failure or be required to appear before the Board to make an oral assessment. Failure of a preceptor to provide the written or oral assessment may be grounds for decertification.
- (3) Administrator-In-Training Program.
- (a) Facilities - Primary training and supervision of an A.I.T. must occur in one primary facility which is approved by the Board. If the Preceptor and the A.I.T. feel it would be beneficial to have certain areas of the training in a facility other than the primary one, the Preceptor shall notify the Board of the areas to be covered, the time to be spent in the secondary facility and the reasons. All facilities to be used must be approved in advance and in writing. The facility must obtain from, complete and submit to the Board Administrative Office an application form and documentation sufficient to show the following:
 - 1. An organizational structure with clearly defined and staffed departments, each with a designated department head. Those departments must include:
 - (i) Administration;
 - (ii) Nursing;
 - (iii) Dietary;
 - (iv) Social services and activities;
 - (v) Medical records; and
 - (vi) Housekeeping, maintenance and laundry.
 - 2. That the administrator serves as the department head of only the administration department of the facility.
 - 3. The absence of outstanding operational deficiencies.
 - 4. The most recent facility licensure survey and the plan of correction in response thereto.
 - (b) A.I.T. Program - Structure and Content. The A.I.T. programs must be conducted in Board approved facilities. The Preceptor must be either the administrator, assistant administrator or regional administrator of the primary facility. The program must comply with the following:

(Rule 1020-1-.06, continued)

1. Prior to commencement of the A.I.T. program, a form must be obtained from, completed and submitted to the Board Administrative Office which contains all the following:
 - (i) Approval of the preceptor by the A.I.T. as evidenced by signature of both the Preceptor and A.I.T.;
 - (ii) The beginning date of the program;
 - (iii) The dates on which required reports are to be filed; and
 - (iv) The anticipated date of the A.I.T.'s completion of the program.
 2. The A.I.T. program shall cover a period of at least six (6) months during which period the A.I.T. shall devote full time and effort toward completion of the program. Should the A.I.T. spend less than full time, thus requiring more than six (6) months to complete, there must be prior written approval of the Board. The reasons for the delay shall be explained in writing by the Preceptor. Under no circumstances shall the program extend beyond one (1) year.
 3. The preceptor and the A.I.T. shall spend a minimum of four (4) hours per week in orientation, direct instruction, planning and evaluation.
 4. It shall be the responsibility of the preceptor to continually evaluate the development and experience of the A.I.T. to determine specific areas needed for concentration.
 5. A preceptor shall use the Board approved workbook as the basic guide. There shall be a pre-training assessment. If deemed advisable, additional material may be added to the basic guide to individually meet the needs of the A.I.T. While the basic guide may be expanded, no areas of the basic guide may be omitted.
 6. The preceptor and the A.I.T. shall submit reports on Board provided forms according to the following schedule:
 - (i) Every two (2) months after its commencement; and
 - (ii) A final report shall be submitted which contains a recommendation on licensure from the preceptor.
- (c) General Rules for A.I.T. Programs.
1. Change of Preceptor.
 - (i) If the approved preceptor is unable, for any reason, to fulfill the approved program of an A.I.T., a new preceptor shall be obtained as soon as possible, but no more than sixty (60) days from the date the A.I.T. first obtained knowledge that the training under the previous preceptor would be discontinued. In special circumstances the Board, upon application, may authorize additional time in which a new preceptor may be secured.
 - (ii) In the event an A.I.T. desires to secure a preceptor different from the one approved by the Board, the new preceptor and the A.I.T. shall notify the Board stating the reasons. New agreement forms shall be completed, signed by the new preceptor and the A.I.T., and be submitted to the Board Administrative Office for approval prior to continuing training.

(Rule 1020-1-.06, continued)

2. It shall be the duty of both the preceptor and the A.I.T. to notify the Board if the A.I.T. drops out of the program.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, and 63-16-107. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed February 3, 1983; effective March 7, 1983. Amendment filed April 19, 1984; effective May 19, 1984. Amendment filed February 23, 1987; effective April 9, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 4, 1989; effective February 18, 1989. Amendment filed August 14, 1989; effective September 28, 1989. Amendment filed September 8, 1989; effective October 23, 1989. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed January 19, 2001; effective April 5, 2001.

1020-1-.07 TEMPORARY LICENSES. The Board may issue temporary licenses under limited circumstances pursuant to T.C.A. § 63-16-104(b).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-103(l), 63-16-103(3), 63-16-103(8), 63-16-104, and 63-16-104(b). **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed August 14, 1989; effective September 28, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-1-.08 RECIPROCITY LICENSURE PROCESS. The Board may, at its discretion, issue a license to practice as a nursing home administrator in Tennessee to individuals who are licensed in and meet all the qualifications for reciprocity from other states. The process for obtaining a license by reciprocity is as follows:

- (1) An applicant shall obtain a Board approved application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and the fees required by rule 1020-1-.02 to the Board Administrative Office.
- (2) The applicant shall submit or cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from each State licensing board from which licensure has ever been issued. It shall indicate that the applicant either holds a current active license and whether it is in good standing, or held a license which is currently inactive and whether it was in good standing at the time it became inactive. The applicant must possess a current active license in good standing in at least one (1) other state.
- (3) The applicant shall submit documentation of the educational and/or training programs completed which qualified the applicant for licensure in the other state(s), which must be substantially equivalent to one (1) of the qualifying categories listed in rule 1020-1-.05(2) or ACHCA (American College for Health Care Administrators) certification.
- (4) Applicants who receive approval of their reciprocity applications must successfully complete the jurisprudence examination as provided in rule 1020-1-.10(2) as prerequisite to licensure.
- (5) Applicants who successfully complete the jurisprudence examination may be licensed.
- (6) In the year an applicant is licensed by reciprocity his/her 18 required hours of continuing education may be satisfied by any combination of continuing education hours approved by NAB.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-103(l) through 63-16-103(3), 63-16-103(8), 63-16-104, 63-16-104(a), and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May

(Rule 1020-1-.08, continued)

22, 1979; effective July 6, 1979. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed February 21, 1986; effective May 13, 1986. Amendment filed January 4, 1989; effective February 18, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-1-.09 APPLICATION REVIEW, APPROVAL, DENIAL, AND INTERVIEWS. Review and decisions on applications shall be governed by the following:

- (1) Upon receipt of an incomplete application, the Board Administrative Office shall notify the applicant of the information required by certified mail, return receipt requested. The applicant shall submit the requested information to the Board Administrative Office on or before the thirtieth (30th) day after receipt of notification. If the requested information is not received by the Board Administrator within thirty (30) days, the application file shall be closed and the applicant notified that the Board will not take further action regarding the application. In order to resume the application process, a new application must be received, including another payment of all fees.
- (2) If the full Board denies licensure, the action shall become final and the following shall occur:
 - (a) Notification of the denial shall be sent by the Board Administrative Office by certified mail, return receipt requested, containing all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act, T.C.A. § 4-5-301, et seq.
 1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
 2. An applicant may be granted a contested case hearing if licensure denial is based on objective, clearly defined criteria and denial is based on a genuine issue of fact and/or law.
- (3) Applicants may be required to present themselves to the Board for oral examination.
- (4) Approval of an application may be withheld or restricted for violation of the provisions of T.C.A. § 63-16-108 and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.

Authority: T.C.A. §§4-5-102(3), 4-5-202, 4-5-204, 63-16-103, 63-16-103(l) through 63-16-103(8), 63-16-104, 63-16-105, 63-16-106(a), 63-16-107(c), 63-16-107(d), 63-16-108, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 28, 1983; effective May 31, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 9, 1991; effective June 22, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-1-.10 EXAMINATIONS.

- (1) NAB Examination. Except for individuals applying for licensure by reciprocity, all applicants must first receive Board approval to take the examination. Successful completion of the examination is required before licensure is granted. The licensure examination process shall be governed by the following:
 - (a) Access to the Examination. To be admitted to the licensure examination an applicant must:
 1. Fully comply with rule 1020-1-.05;

(Rule 1020-1-.10, continued)

2. Receive approval of the Board to take the examination; and
 3. Failure to comply with rule 1020-1-.05 within one (1) calendar year of the date on which the application is received by the Board Administrator shall cause the application to be closed as incomplete unless prior written authorization for an extended period has been issued by the Board.
- (b) The Examination.
1. The Board approves the subjects, scope, content and format of the NAB examination and adopts the examination as the licensure examination for Tennessee applicants.
 2. Passing scores and grading processes are determined by NAB. Such passing scores as certified to the Board are adopted by the Board as constituting successful completion of the licensure examination.
 3. Applicants who fail to successfully complete the examination may apply to retake it by complying with the requirements stated in subparagraph (1) (a) of this rule.
- (2) Jurisprudence Examination. All applicants for licensure must successfully complete the Board's jurisprudence examination as a prerequisite to licensure.
- (a) When an applicant has become eligible for licensure and has submitted the Jurisprudence Examination Fee as provided in rule 1020-1-.02 (1) (g), the Board shall send notification of such eligibility and the jurisprudence examination to the applicant.
 - (b) The examination must be completed and returned to the Board Administrative Office before the expiration of ninety (90) days from the date of notification of eligibility, or the applicant shall forfeit such eligibility and must begin the licensure process over.
 - (c) The scope, format, and content of the examination shall be determined by the Board but limited to statutes and rules governing practices and facilities.
 - (d) Correctly answering ninety percent (90%) of the examination questions shall constitute a passing score and successful completion of the jurisprudence exam. Applicants who fail to achieve a passing score on the examination may apply to retake it by written request to the Board Administrative Office and payment of the Jurisprudence Examination Fee as provided in rule 1020-1-.02 (1) (g).

Authority: T.C.A. 4-3-1011, 4-5-202, 4-5-204, 63-16-103 through 63-16-106, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. New rule filed December 30, 1983; effective January 29, 1984. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 4, 1989; effective February 18, 1989. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed February 20, 2002; effective May 6, 2002.

1020-1.11 LICENSURE RENEWAL. All persons licensed by the Board must renew their licenses to be allowed to lawfully continue in practice. The due date for renewal is the last day of the month in which a licensee's birthdate falls, pursuant to the Division's biennial birthdate renewal system, shown as the expiration date on renewal certificates.

- (1) Methods of Renewal

(Rule 1020-1-.11, continued)

- (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 - (b) Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (2) To be eligible for licensure renewal, a licensee must submit to the Board Administrative Office on or before the due date for renewal all the following:
 - (a) A completed Board licensure renewal form.
 - (b) The Renewal Fee as provided in rule 1020-1-.02(1)(b).
 - (c) The State Regulatory Fee as provided in rule 1020-1-.02(1)(c).
 - (3) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
 - (4) Reinstatement of an Expired License. Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) At the discretion of the Board, either appear before it or submit a notarized statement setting forth the cause for failure to renew; and
 - (b) Payment of all past due Renewal Fees and State Regulatory Fees; and
 - (c) Payment of the Late Renewal Fee provided in rule 1020-1-.02 (1) (d); and
 - (d) Compliance with the continuing education requirements of rule 1020-1-.12; and
 - (e) If expiration was a result of failure to comply with T.C.A. § 63-16-107(e) and rule 1020-1-.14, submit documentation of successful completion of the conditions imposed by the Board as a result of any disciplinary action or settlement pursuant to rule 1020-1-.14 or rule 1020-1-.15.
 - (5) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due must, in addition to completing the requirements of paragraph (4) of this rule, reapply for, take and pass the nursing home administration examinations pursuant to rules 1020-1-.05 and 1020-1-.10. If continuously and actively practicing in another state as a licensed nursing home administrator, reinstatement may be accomplished upon meeting the following conditions:
 - (a) Compliance with paragraph (2) of rule 1020-1-.08; and
 - (b) Compliance with paragraph (4) of this rule.
 - (6) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any Board member.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-16-103, 63-16-107, 63-16-108, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Repeal and new rule filed December 14, 1999;

(Rule 1020-1-.11, continued)

effective February 27, 2000. Amendment filed January 19, 2001; effective April 5, 2001. Amendment filed August 6, 2002; effective October 20, 2002.

1020-1-.12 CONTINUING EDUCATION. Although licensure renewal is required on a biennial basis, all licensees must attend and complete the continuing education requirements of this rule annually, on a calendar year basis, as a prerequisite to licensure renewal.

(1) Hours Required.

- (a) All licensees must attend and complete eighteen (18) clock hours of Board approved continuing education within every calendar year.
- (b) For new licensees, submitting proof of successful completion of the NAB licensure examination shall be considered proof of sufficient preparatory education to constitute continuing education clock hour credit for the length of time already transpired in the calendar year in which the applicant is approved.
 - 1. For purposes of the requirement set out in subparagraph (1) (a) of this rule, credit for the length of time already transpired shall be calculated at the rate of four and a half (4½) clock hours per quarter-calendar year.
 - 2. The provisions of this subparagraph shall apply to all new licensees, including new licensees who have been approved pursuant to rule 1020-1-.08.
- (c) The Board approves courses for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required annual hours regardless of the number of times the course is attended or completed by any individual licensee.

(2) Documentation of Compliance:

- (a) The due date for completion of the annual clock hours required in subparagraph (1) (a) of this rule is December 31st of each year.
- (b) Each licensee must retain proof of attendance and completion of all continuing education requirements of this rule and subparagraph (2) (a) of rule 1020-1-.06. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was required. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
- (c) The individual must, within thirty (30) days of a request from the board, provide evidence of continuing education activities. Certificates verifying the individual's attendance or original letters from course providers are such evidence.

(3) Course Approval.

- (a) Courses offered for credit toward the required continuing education hours must either have received approval from the National Continuing Education Review Service of NAB, or be courses provided by organizations requesting and receiving approval from the Board based on the following criteria:
 - 1. The organization's experience in providing education in the nursing home or health care field;

(Rule 1020-1-.12, continued)

2. The organization's ability to provide appropriate subject material and instruction. The material must be directly related to the duties and responsibilities of a nursing home administrator and be in one or more of the Domains of Practice;
 3. The organization's ability to provide regular or on-going instruction for licensees on a state-wide basis; and
 4. The organization's commitment to provide evidence, at the request of the Board, of the licensee's attendance at the program. A synopsis of each program will be filed with the Board.
- (b) Courses relating to any of the Domains of Practice offered by accredited colleges, universities or community colleges are approved for credit toward the continuing education requirements. Every three (3) semester hours or equivalent quarter hours shall be the equivalent of eighteen (18) clock hours of continuing education. No credit shall be allowed for courses failed according to the institutions' grading determinations.
- (c) Multi-Media courses may be taken for continuing education credit.
1. Multi-Media courses may include courses utilizing:
 - (i) The Internet
 - (ii) Closed circuit television
 - (iii) Satellite broadcasts
 - (iv) Correspondence courses
 - (v) Videotapes
 - (vi) CD-ROM
 - (vii) DVD
 - (viii) Teleconferencing
 - (ix) Videoconferencing
 - (x) Distance learning
 2. A maximum of twelve (12) credit hours may be granted for multi-media courses during each calendar year.
- (4) Violations.
- (a) Any licensee who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to rule 1020-1-.15.
 - (b) Education hours obtained as a result of any of the following shall not be credited toward the continuing education hours required to be obtained by the end of any calendar year:
 1. Compliance with informal settlements pursuant to rule 1020-2-.15;
 2. Compliance with Board Orders in any disciplinary action; and

(Rule 1020-1-.12, continued)

3. Compliance with proposed settlements for obtaining an “affirmative finding” pursuant to rule 1020-1-.14.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-106, and 63-16-107. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000. Amendment filed January 19, 2001; effective April 5, 2001. Amendment filed January 23, 2002; effective April 8, 2002.

1020-1-.13 LICENSURE RETIREMENT AND REACTIVATION.

- (1) Licensees who wish to retain their licenses but not actively practice may avoid administrative revocation of licensure and/or compliance with the licensure renewal process and continuing education requirements by doing the following:
 - (a) Obtain from, complete and submit to the Board Administrative Office an affidavit of retirement form; and
 - (b) Submit any documentation which may be required by the form to the Board Administrative Office.
- (2) Any licensee whose license has been retired may reenter active practice by doing the following:
 - (a) Submit a written request for licensure reactivation to the Board Administrative Office;
 - (b) Pay the Licensure Renewal Fee and State Regulatory Fee as provided in rule 1020-1-.02(1)(b) and (c). If retirement was pursuant to rule 1020-1-.11(5), and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the Late Renewal Fee and past due Renewal Fees and State Regulatory Fees as provided in rule 1020-1-.02(1)(b), (c) and (d);
 - (c) A licensee who applies for reactivation of a retired license before the expiration of five (5) years from the date of retirement must submit, along with the reactivation request, certification of attendance and completion of at least twenty-seven (27) clock hours of Board approved continuing education as a prerequisite to licensure reactivation. A licensee who applies for reactivation of a retired license after the expiration of five (5) years from the date of retirement must submit, along with the reactivation request, certification of attendance and completion of at least fifty (50) clock hours of Board approved continuing education as a prerequisite to licensure reactivation. If licensed and actively practicing in another state reactivation may be accomplished by endorsement. The required hours must have been begun and completed within the twelve (12) months immediately preceding the date of reactivation; and
 - (d) The continuing education hours completed as a prerequisite to licensure reactivation shall not be credited toward the continuing education hours required to be completed by the end of the calendar year of reactivation.
 1. Submitting proof of successful completion of the requirements in subparagraph (2) (c) of this rule shall be considered proof of sufficient continuing education to constitute continuing education clock hour credit for the length of time already transpired in the calendar year in which the license is reactivated.
 2. Such credit shall be calculated at the rate of four and a half (4½) clock hours per quarter-calendar year.

(Rule 1020-1-.13, continued)

- (3) Anyone retiring and then reactivating a license must remain in “active status” and may not retire again until the expiration of one (1) renewal cycle.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, and 63-16-107. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Amendment filed January 13, 1986; effective February 27, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed August 14, 1989; effective September 28, 1989. Repeal and new rule December 17, 1991; effective January 31, 1992. Amendment filed June 14, 1994; effective August 28, 1994. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000.

1020-1-.14 107(e) ADMINISTRATOR REVIEW. Any licensee who has engaged in the practice of nursing home administration in a facility reported by the Commissioner of the Department of Health pursuant to T.C.A. §§ 68-11-201, et seq., and 63-16-107(e) for the year immediately preceding the reporting shall be subject to the following review process:

- (1) All administrators shall be required to complete and document a Board approved questionnaire. Said questionnaire shall be considered part of the information required for review pertaining to the quality of care rendered at the administrator’s facility pursuant to T.C.A. § 63-16-107(e).
- (2) The Board Consultant is authorized to take the following actions regarding the administrators to be reviewed pursuant to T.C.A. § 63-16-107(e). However, all final actions shall be submitted to the full Board for approval.
 - (a) Review all documents compiled by the agencies.
 - (b) Recommend that an “affirmative finding” be made as to any administrator reviewed.
 - (c) Recommend that “no affirmative finding” be made as to any administrator reviewed.
 - (d) Propose a course of action to be taken by an administrator who receives a negative finding recommendation which, if taken, would result in a recommendation of an “affirmative finding”.
 - (e) Recommend disciplinary action be instituted and any terms which would be acceptable to reach an informal or negotiated settlement in lieu of a contested case.
- (3) The Board shall review the Board Consultant’s recommendations for “affirmative findings” and, if approved, a notice of the Board action shall be sent to the administrator involved.
- (4) The Board shall not consider the Board Consultant’s recommendations other than “affirmative findings” until such time as all legal requirements or obligations are met as to those recommendations which might result in a contested case hearing before the Board.
- (5) The Board Consultant is authorized to do any of the following acts in an effort to resolve any of the cases under review:
 - (a) Authorize the issuance of an “affirmative finding” in those cases in which the administrator has acted in a manner consistent with the policy statement of rule 1020-1-.16(1);
 - (b) Make direct contact with any administrator under review for purposes of issue clarification after first notifying the administrator of the right to consult with an attorney; or
 - (c) Recommend that an administrator, for whom an “affirmative finding” could not be made, obtain continuing or additional education or training in specific areas within a specific amount of time in an effort to justify the issuance of an “affirmative finding” or an Agreed Order thereby informally or otherwise settling the matter. Any education completed under this subparagraph

(Rule 1020-1-.14, continued)

shall not be included as part of the annual continuing education hours required by rule 1020-1-.12.

- (6) Upon all legal requirements and obligations being met and a recommendation from the Board Consultant that an “affirmative finding” cannot be made, a notice of that recommendation shall be sent to the administrator involved. He shall also be notified of any and all rights available to him for review of that recommendation before the Board.
 - (a) If the administrator does not pursue his review rights within thirty (30) days of receipt of notice thereof the matter will be referred to the board for approval of the recommendation at which time it shall become a final action of the board.
 - (b) If an administrator requests a hearing pursuant to subparagraph (6)(a) a Notice of Hearing shall be issued alleging the facts and violations of the Nursing Home Administrator’s Practice Act and the fact that disciplinary actions may be taken when the matter is addressed as a contested case hearing.
- (7) Administrators subject to review shall not be allowed to renew their licenses until one of the following has occurred:
 - (a) An “affirmative finding” letter has been authorized by the Board; or
 - (b) Any requested contested case hearing is concluded subject to the provisions of T.C.A. § 4-5-320.
- (8) Any administrator who by final action of the Board has not been allowed to renew licensure pursuant to this rule may not engage in the practice of nursing home administration at any time until complying with all statutes and rules governing initial licensure. The Board may consider the action taken under this rule in determining whether the person is qualified for licensure.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-103(4), 63-16-103(5), 63-16-103(8), 63-16-107, and 63-16-107(e). **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 4, 1989; effective February 18, 1989. Amendment filed July 19, 1990; effective September 2, 1990. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-1-.15 LICENSURE DISCIPLINE, CIVIL PENALTIES, INFORMAL SETTLEMENTS, ASSESSMENT OF COSTS AND SUBPOENAS.

- (1) Acts or omissions of or by an applicant or licensee which may, within the context of the policy statement of rule 1020-1-.16, constitute “unfitness” or “incompetence” in the practice of nursing home administration, as those terms are used in T.C.A. § 63-16-108(a)(1) for which disciplinary action and licensure or licensure renewal denial are authorized, include but are not limited to the following:
 - (a) Failure to comply with all continuing education requirements of rule 1020-1-.12.
 - (b) Intentionally or negligently allowing abuse or neglect of a resident or placing a resident in a situation where abuse or neglect, as those terms are defined in T.C.A. § 71-6-102(1), is occurring or is likely to occur.
 - (c) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person’s ability to practice nursing home administration.

(Rule 1020-1-.15, continued)

- (d) Unauthorized use or unauthorized removal of narcotics, drugs, supplies or equipment from any health care facility or other work place location.
 - (e) Impersonating another licensed nursing home administrator.
 - (f) Permitting or allowing another person to use the licensee's license for the purpose of nursing home administration.
 - (g) Revocation or suspension or other disciplinary action taken with respect to a license to practice nursing home administration by another state or territory of the United States or any act or omission which would constitute grounds for the revocation, suspension or other disciplinary action with respect to a license in this state.
 - (h) Practicing nursing home administration in this state on a lapsed state license or beyond the period of a valid temporary license.
 - (i) Failure to notify the appropriate licensure board of the unethical or illegal practice of any health care professional or provider of which the administrator has direct knowledge or responsibility.
 - (j) Violation of any lawful order of the Board.
 - (k) Making false statements or representations in obtaining a license to practice nursing home administration.
 - (l) Willfully or repeatedly violating any of the provisions of the laws of the State of Tennessee governing licensure of nursing homes or any of the rules promulgated pursuant thereto.
- (2) Upon a finding by the Board that a licensee has violated any provision of the Tennessee Nursing Home Administrator Practice Act (T.C.A. §§ 63-16-101, et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:
- (a) Private Censure. A written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Public Censure or Reprimand. A written action issued to a licensee for a single episode or less severe violations. It is a formal disciplinary action.
 - (c) Probation. A formal disciplinary action which places a licensee on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the licensee's activities during the probationary period.
 - (d) Licensure Suspension. A formal disciplinary action which suspends a licensee's right to practice for a fixed period of time. It contemplates the reentry of the licensee into practice under the license previously issued.
 - (e) Licensure Revocation. The most severe form of disciplinary action which removes a licensee from practice and terminates the license previously issued. It relegates the violator to the status possessed prior to application for licensure. However, the Board may allow the reinstatement of a revoked license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license has been revoked shall be considered prior to the expiration of at least one (1) year.

(Rule 1020-1-.15, continued)

- (f) Conditions. Any action deemed appropriate by the Board to be required of a disciplined licensee during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license.
 - (g) Civil Penalty. A monetary disciplinary action assessed by the Board pursuant to paragraph (3) of this rule.
- (3) Civil Penalties.
 - (a) The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.
 - (b) Schedule of Civil Penalties.
 - 1. A Type A Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed or certified by the Board guilty of a willful and knowing violation of the Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is or is likely to be an imminent, substantial threat to the public. For purposes of this section willfully and knowingly practicing as a nursing home administrator without a license from the Board is one of the violations of the Nursing Home Administrators Practice Act for which a Type A Civil Penalty is assessable.
 - 2. A Type B Civil Penalty may be imposed whenever the Board finds a person required to be licensed by the Board is guilty of a violation of the Nursing Home Administrators Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
 - 3. A Type C Civil Penalty may be imposed whenever the Board finds a person required to be licensed by the Board is guilty of a violation of the Nursing Home Administrators Practice Act or regulations promulgated pursuant thereto, which is neither directly detrimental to the patients or public, nor directly impacts their care, but has only an indirect relationship to patient care or the public.
 - 4. Each day a violation continues to occur shall constitute a separate violation.
 - (c) Amount of Civil Penalties.
 - 1. Type A Civil Penalties may be assessed in the amount of not less than \$500 nor more than \$1,000.
 - 2. Type B Civil Penalties may be assessed in the amount of not less than \$100 nor more than \$500.
 - 3. Type C Civil Penalties may be assessed in the amount of not less than \$50 nor more than \$100.
 - (d) Procedure for Assessing Civil Penalties.
 - 1. The Division may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges.

(Rule 1020-1-.15, continued)

2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and,
 - (v) The interest of the public.
- (4) All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of the Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (5) Informal Settlements. The Board Consultant is authorized to enter informal settlement agreements pursuant to rule 1020-1-.03(5)(b) under which a complaint against a licensee may be closed without any disciplinary action. Such agreements may include any terms deemed appropriate by the Board consultant including, but not limited to:
 - (a) Mandatory education program or course attendance.
 - (b) Submission of reports, records or other appropriate documentation.
 - (c) Conditioning of a licensee's activities in any manner which affects his or her practice in Tennessee.
- (6) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the "payment of costs", that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.
- (7) Subpoenas
 - (a) Purpose - Although this rule applies to persons and entities other than nursing home administrators, it is the Board's intent as to nursing home administrators that they be free to comprehensively treat and document treatment of their residents without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently,

(Rule 1020-1-.15, continued)

balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or board investigators to seek other incriminating evidence against nursing home administrators when the division or board does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

- (i) For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of nursing home administrator statutes or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the board, or any duly appointed or elected chairperson of any panel of the board.

- (c) Procedures

1. Investigative Subpoenas

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Board's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:
 - (I) The time frame in which issuance is required so the matter can be timely scheduled; and
 - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or board.

In no event shall such subpoena be broadly drafted to provide investigative access to medical records of other patients who are not referenced in a

(Rule 1020-1-.15, continued)

complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or board consideration of a nursing home administrators conduct, act, or omission.

- (III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and
 - (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.
- (iii) The Board's Unit Director shall cause to have the following done:
- (I) In as timely a manner as possible arrange for either an elected officer of the board, or any duly appointed or elected chairperson of the board, to preside and determine if issuing the subpoena should be recommended to the full Board; and
 - (II) Establish a date, time and place for the proceedings to be conducted and notify the presiding officer, the applicant and the court reporter; and
 - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
 - I. Preserve a verbatim record of the proceeding; and
 - II. Prevent the person presiding over the proceedings and/or signing the subpoena from being allowed to participate in any manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
- (I) The applicant shall do the following:
 - I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
 - II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
 - III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the, items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
 - C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and

(Rule 1020-1-.15, continued)

D. The date, time and place for compliance with the subpoena.

- IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.

(II) The Presiding Officer shall do the following:

- I. Have been selected only after assuring the Boards' Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
- II. Commence the proceedings and swear all necessary witnesses; and
- III. Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings and present to the full board only that evidence necessary for an informed decision; and
- IV. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
- V. Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, make such recommendation to the full board; and
- VI. Sign the subpoena as ordered to be issued; and
- VII. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.

(III) The Board shall do the following:

- I. By a vote of two thirds (2/3) of the members to which the board is entitled, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry, or quash or modify an existing subpoena by a majority vote; and
- II. Sign the subpoena as ordered to be issued, quashed or modified.

2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case being heard with an Administrative Law Judge from the Secretary of State's office presiding, this definition shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

(Rule 1020-1-.15, continued)

1. All subpoena shall be issued on forms approved by the Board.
 2. The subpoena forms may be obtained by contacting the Board's Administrative Office.
- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, 63-16-108, and 63-16-115. **Administrative History:** Original rule certified June 7, 1974. Amendment filed December 17, 1982; effective January 17, 1983. Amendments by Public Chapter 969; effective July 1, 1984. Amendment filed June 30, 1987; effective August 14, 1987. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed January 5, 1990; effective February 19, 1990. Amendment filed March 16, 1990; effective April 30, 1990. Amendment filed July 19, 1990; effective September 2, 1990. Amendment filed September 24, 1990; effective November 8, 1990. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed April 10, 2000; effective July 1, 2000. Amendment filed February 20, 2002; effective May 6, 2002.

1020-1-.16 SCOPE OF PRACTICE.

- (1) Policy Statement. The health, safety and welfare of nursing home residents in Tennessee depends upon the efficiency, fitness, competence and integrity of the administrators of those nursing homes. Licensure to practice nursing home administration confers upon each licensee the ultimate responsibility for the overall operation of any nursing home in which the licensee has assumed duties as an administrator. That responsibility, for purposes of nursing home administration licensure, is independent of any responsibility for facility licensure placed upon any governing body of a facility or any corporation, association or other entity or person which may own the facility.

A licensee's responsibility extends to the acquisition of the authority necessary to assure that all equipment, supplies, personnel, structures and finances are available at all times and in such measures as to bring the facility into compliance with statutes and rules governing nursing home administrators, nursing home licensure and federal certification if participating in the Medicare or Medicaid programs.

It is only after exhaustion of all avenues available to an administrator to secure those items necessary for the prevention or correction of facility survey deficiencies that the administrator will be deemed to have met his licensure responsibilities.

- (2) Surveys, Complaint Investigations, and Inspections. All matters concerning governmental surveys, complaint investigations and inspections of any kind are the direct responsibility of the administrator employed at the facility. The responsibility for addressing those actions cannot be assumed by any unlicensed personnel or licensees who are not expressly employed as the administrator of the facility.
- (a) When an authorized signature is required on any federal, state or local governmental survey, investigation or inspection of any kind, those documents must be reviewed and signed by the administrator employed at the facility regardless of corporate or other ownership procedures or policies.
 - (b) In the absence of a facility administrator's signature, the signature of any person authorized by the owner of the facility does not absolve the administrator from responsibility for the condition in the facility which gave rise to the governmental action. Such signatures merely signify that the contents of the documents are true and any remedial action incorporated is authorized for timely implementation.
 - (c) The failure of any facility administrator to sign governmental documents requiring authorized signatures when within reasonable capabilities of the administrator to do so may constitute

(Rule 1020-1-.16, continued)

grounds for discipline pursuant to T.C.A. § 63-16-108. Any unlicensed personnel who sign such documents not containing the facility administrator's signature may be considered as practicing nursing home administration without a license and consequently subject to Board jurisdiction pursuant to T.C.A. § 63-1-134 and rule 1020-1-.15(3).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-134, 63-16-103, 63-16-107, 63-16-107(b), 63-16-108, 63-15-108(a), 63-86-103(2) through 63-86-103(5), and 63-86-103(8). **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed September 11, 1984; effective October 11, 1984. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed May 6, 1988; effective June 20, 1988. Amendment filed January 4, 1990; effective February 18, 1990. Repeal and new rule filed December 17, 1991; effective January 31, 1992. Repeal and new rule filed December 14, 1999; effective February 27, 2000.

1020-1-.17 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice reporting requirements. The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).
- (2) Criminal conviction reporting requirements. For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:
 - (a) Conviction of any felony.
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 1. Sex.
 2. Alcohol or drugs.
 3. Physical injury or threat of injury to any person.
 4. Abuse or neglect of any minor, spouse or the elderly.
 5. Fraud or theft.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-16-103, and 63-51-101, et seq. **Administrative History:** Original rule certified June 7, 1974. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed September 24, 1987; effective December 29, 1987. Repeal filed December 17, 1991; effective January 31, 1992. New rule filed April 10, 2000; effective July 1, 2000.

1020-1-.18 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984.

1020-1-.19 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Repealed by Public Chapter 969; effective July 1, 1984.

1020-1-.20 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984.

1020-1-.21 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Amendment filed May 22, 1979; effective July 6, 1979. Repealed by Public Chapter 969; effective July 1, 1984.

1020-1-.22 REPEALED.

Authority: T.C.A. §63-16-103. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 969; effective July 1, 1984.

1020-1-.23 REPEALED.

Authority: T.C.A. §§63-16-103(8) and 4-5-202. **Administrative History:** Original rule certified June 7, 1974. Repeal filed December 17, 1991; effective January 31, 1992.